425.

SUPREME COURT OF THE UNITED STATES.

No. 137.

JACOB HUGG AND JOHN M. BANDEL, PLAINTIFFS,

vs.

THE AUGUSTA INSURANCE AND BANKING COMPANY OF THE CITY OF AUGUSTA,

ON A CERTIPICATE OF DIVISION FROM THE CIRCUIT COURT U. S. FOR MARYLAND.

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J. & G. S. Gideon, Printers.

The United States of America,
District of Maryland, to wit:

At a circuit court of the United States for the fourth circuit, in and for the Maryland district, begun and held at the city of Baltimore on the first Monday in April, in the year of our Lord one thousand eight hundred and forty-five.

Present, the honorable Roger B. Taney, chief justice of the Supreme court of the United States, the honorable Upton S. Heath, judge of Maryland district; Wm. L. Marshal, esquire, attorney; Moreau Forrest, esquire, marshal; Thomas Spicer, clerk.

Among other were the following proceedings, to wit:

JACOB HUGG and JOHN M. BANDEL,
vs.
The Augusta Insurance and Banking Company of the city of Augusta.

In the circuit court of the United States for the Maryland district.

The plaintiffs to support the issues on their part joined in the above cause, offered in evidence the policy of insurance, following:

Policy of Insurance.

By the Augusta Insurance and Banking Company, Augusta, Georgia, No. 642.

This policy of insurance witnesseth: That the Augusta Insurance and Banking Company, in the city of Augusta, in consideration of the sum of one hundred and fifty-six $\frac{25}{100}$ dollars; to them paid by the assured, hereinafter named, the receipt whereof is hereby acknowledged, do insure Jacob W. Hugg, pr. account of whom it may concern, loss if any payable to him, on freight of the barque Margaret Hugg, at and from Baltimore, to Rio Janeiro and back to Havana or Mantanzas, or a port in the United States, with the privilege of the river Platte, to the amount of five thousand dollars—premium *a* $\frac{3}{8}$ $156 25, to return $\frac{9}{16}$ for each port in the river Platte, not used and no loss happen, (excepting money, bullion, promissory notes, and other evidences of debt,) laden or to be laden on board the good barque Margaret Hugg,———— master, or whoever shall go for master, in the present voyage or trip of the said barque between and at said places, during the continuance of this policy.

Sum insured $5,000.

Beginning the adventure upon the said freight, from and immediately following the lading thereof aforesaid at Baltimore, and continuing the same until the said goods, wares, and merchandise shall be safely landed at the port aforesaid. And it shall and may be lawful for the said barque to load in such manner as is usual and customary for vessels employed in the navigation aforesaid, and to proceed and sail to,

touch and stay at, any intermediate port or ports, place or places, if thereunto obliged by stress of weather, head tide, or unavoidable accident, or if the same shall be necessary or convenient for the transaction of any lawful or material business, without prejudice to this policy.

Touching the adventures and perils which the Augusta Insurance and Banking Company in the city of Augusta is contented to bear and take upon itself, in the trip or voyage aforesaid, they are of the seas, rivers, and fires, and all other losses, perils and misfortunes, that shall come or happen, to the hurt, detriment, or damage of the said goods, wares and merchandise, laden on board of said barque in the voyage or trip aforesaid, excepting perils, losses and misfortunes, arising from, or caused by theft, robbery or barratry of the master or any of the crew of said barque.

And the said "the Augusta Insurance and Banking Company of the city of Augusta," do hereby undertake and agree to make good, and satisfy, unto the said assured, all such losses or damage, on the said goods, wares and merchandise, so laden as aforesaid, not exceeding in amount the sum insured thereon, as shall happen or arise from any (of the aforesaid) causes and casualties (excepting as before excepted) the said loss or damage, to be estimated according to the true and actual value of the said property hereby insured at the time the same shall happen; and to be paid within ninety days after notice and proof thereof made by the assured. Provided always, that the said company shall not be liable to make good any partial loss or particular voyage, unless the same shall amount to five per cent. upon the value of the property hereby insured. And provided further, and it is hereby agreed, that if the said assured shall already have made any other assurance upon the premises aforesaid, not notified to this corporation, and mentioned in or endorsed upon this policy, then this insurance shall be void and of no effect; and in case of any other assurance upon the premises herein insured, whether prior or subsequent to the date of this policy, the assured shall not, in case of loss or damage, be entitled to demand or receive of this company any greater portion of the loss or damage sustained, than the amount hereby insured shall bear to the whole amount insured on the said premises. And in case difference shall arise, touching any loss or damage, it may be submitted to the judgment of arbitrators mutually chosen, whose award in writing shall be binding on the parties.

Premium $156 25.

And further, should any loss or damage under this policy, be occasioned by any other vessel, or person or persons, in such manner that such other vessel, or the owners thereof, or such person or persons, shall be liable therefor, then all claims for such loss or damage shall be assigned over to the said company, or shall enure to their benefit in proportion to the amount of such loss sustained by them: that is to say, the amount of such loss so sustained by them shall be satisfied and paid out of what shall be recovered by such claims in the same proportion (according to amount) as the losses sustained by other sufferers shall be paid out of said recovery.

This policy may be assigned, provided, that before any loss happens,

notice shall have been given to this company of such assignment, otherwise the company shall not be bound to pay any loss upon this policy. And provided further, that the said company, when so notified, shall be at liberty to return a rateable proportion of the premium, and thereupon be exonerated from their responsibility by virtue of this policy, and the same shall cease, and be of no further effect.

It is also agreed, that bar and sheet iron, wire, tin plates, salt, grain of all kinds, tobacco, Indian meal, fruits, (whether preserved or otherwise) cheese, dry fish, vegetables and roots, hempen yarn, cotton bagging, pleasure carriages, household furniture, furs, skins, and hides, musical instruments, looking glasses, and all other articles that are perishable in their own nature, are warranted by the assured free from average, unless general; hemp free from average under twenty per cent., unless general; and sugar, flax, flax seed, and bread are warranted by the assured free from average under seven per cent., unless general; and coffee in bags or bulk, and pepper in bags or bulk, free from average under ten per cent., unless general.

If the voyage aforesaid shall have been begun, and shall have terminated before the date of this policy, then there shall be no return of premium on account of such termination of the voyage.

The responsibility of the company is limited to five hundred thousand dollars, the amount of capital actually paid in. In witness whereof, the Augusta Insurance and Banking Company in the city of Augusta have caused these presents to be signed by their president, and attested by their secretary, in the city of Augusta, this 16th day of April, in the year of our Lord one thousand eight hundred and forty-one.

This policy not binding until countersigned by George C. Morton, agent for the company at Baltimore.

WILLIAM HARPER, *President.*

Attested: ROBERT WALTON, *Secretary.*

All losses under this policy, to be settled agreeably to the terms of the Baltimore Insurance Company, the above notwithstanding.

GEORGE C. MORTON, *Agent.*

For one quarter per cent. additional premium on the sum insured by this policy, Rio de Janeiro, may be used a second time. The same to be returned if the port is not used.

$5,000 ¼ p. ct. $12 50, paid.

GEO. C. MORTON, *Agent.*

(Endorsed) December, 9th, 1841.

No. 642. AUGUSTA INSURANCE AND BANKING CO.

Barque Margaret Hugg, from Baltimore to Rio Janeiro, with the privilege of the river Platte, and back to a port in the United States.

Freight, $5,000.

Prem. *a.* ⅜ p. ct. - - - - - -	$156 25
Policy, - - - - - - -	1 00
	$157 25

JACOB HUGG.

Which was admitted to have been subscribed and executed by the defendants through their regularly constituted and appointed agent, George C. Morton. And also the following form of the Baltimore policy, referred to in the memorandum :

Form of the Baltimore policy, referred to.

By the Baltimore Insurance Company.

This policy of insurance witnesseth : that the Baltimore Insurance Company have insured, and do hereby insure, agreeably to order as well in own name, as in the name or names of all and every person or persons to whom the same doth, may, or shall appertain in part, or in the whole, lost or not lost, at and from upon the freight of any kind of lawful goods, laden or to be laden, on board the called the whereof is master for this present voyage, or whoever else shall be master of the said vessel : Beginning the adventure upon the said goods, from the loading thereof on board the said vessel, and so shall continue and endure, until the said goods shall be landed at aforesaid.

The said goods, for so much as concerns this insurance, by agreement between the insured and insurers, are and shall be on freight valued at and it shall and may be lawful for the said vessel, in her said voyage, to proceed and sail to, touch and stay at, any ports or places, if thereunto obliged by stress of weather, or other unavoidable accident, without prejudice to this insurance. The perils and adventures of which the said insurance company are contented bear in this voyage, are of the seas, fire, enemies, pirates, assailing thieves, jettisons, restraints, and detainments of all kings, princes, or people, of what nation or quality soever ; barratry of the master and mariners; and all other losses and misfortunes, which have or shall come to the detriment or damage of the said goods, or any part thereof, for which insurers are legally accountable. And in case of any loss or misfortune, by any of the perils ensured against, it shall be lawful and necessary, to and for the insured, their factors, servants, and assigns, to sue, labor and travel for, in and about the defence, safeguard and recovery of the said goods, or any part thereof, without prejudice to this insurance; to the charges whereof the said Insurance Company shall contribute in proportion, as the sum hereby insured is to the whole amount at risk. And the acts of the insured or insurers, in receiving, saving, or preserving the property insured in case of disaster, shall not be considered a waiver or acceptance of abandonment. And so the said Insurance Company are contented, and do hereby bind the capital stock, and other common property, of the said Insurance Company, to the insured, their executors, administrators and assigns, for the true performance of the premises, confessing themselves paid the consideration due to them for this insurance by the insured, at and after the rate of

And in case of loss, the same will be paid in ninety days after proof and adjustment thereof, deducting the amount of the premium if then un-

paid, and all sums due to the company from the insured, when such loss becomes due; provided such loss shall amount to five per cent. on the whole sum hereby insured, under which no payment shall be made, except for general average.

And the said Insurance Company shall not be liable for any partial loss on grain, seeds, peas, beans, dry fish, or fruit, or tobacco stems, in bulk, unless it amount to twenty per cent. or upwards on the sum hereby insured and the vessel be stranded; nor for any partial loss on hemp, flax, peltries, or tobacco stems in casks or bales, unless it amount to twenty per cent. or upwards on the sum hereby insured; nor for any partial loss on salt, hides, skins, corn meal, bread, coffee, or cocoa stowed in bulk, hoop, sheet, or bar iron, iron or brass wire, tin plates, all liquids in casks or otherwise, tobaccco; medicinal roots, or sugar in bags, unless it amount to ten per cent. or upwards on the sum hereby insured; nor for any partial loss on coffee or cocoa in bags, sugar in boxes or casks, flax seed or rice, unless it amount to seven and a half per cent. or upwards, on the sum hereby insured. In case of capture or detention, from any cause, the insured renounce all claims against the insurers, for demurrage, masters', officers', or seamen's wages and provisions; and the said insured shall not abandon, in consequence of the port of destination being blockaded or occluded, but the vessel shall, in such case, have liberty to proceed to a neighboring port not blockaded or occluded, and there end the voyage.

It is also agreed by the parties to this policy, that no part of the premium shall be returned or abated on account of any deviation from the voyage hereby insured. And in all cases of return premium, one quarter per cent., on the sum hereby insured, is to be retained by the said company. The property hereby insured, is warranted, by the insured, free from any charge, damage, or loss, which may arise in consequence of seizure or detention, for or on account of any illicit or prohibited trade, or trade in articles contraband of war. And should the said vessel not be heard of within months from the time she leaves her last port, or is last heard of, then she shall be deemed lost, which loss the said company agree to pay without further delay.

It is further agreed, that if any dispute shall arise relating to a loss under this policy, it shall be referred to two disinterested persons, one to be chosen by the insured, out of three to be named by the president of the said Baltimore Insurance Company; the other by the president out of three to be named by the insured; who shall have full power to adjust the same; and in case they cannot agree, then such two persons shall choose a third person, and the decision of any two of them shall be obligatory on both parties.

In witness whereof, the president of the Baltimore Insurance Company aforesaid, has subscribed his name and the sum insured, at the city of Baltimore this day of one thousand eight hundred and forty

President.

$

Premium - - - - - -	$00 00
Policy - - - - - -	1 00
	$

This is a policy on freight used by the Baltimore Insurance Company in 1841.

SAMUEL B. THOMPSON *Prest.*

They further offered in evidence, by Samuel Fernandis, a competent witness, that on the 8th day of July, 1842, witness was acting in the capacity of notary public in the city of Baltimore, and at the instance of the plaintiffs, or one of them, prepared and served on George C. Morton the notice of abandonment herewith produced.

Notice of abandonment.

BALTIMORE, 8th *July*, 1842.

George C. Morton, esq., agent in Baltimore of the Augusta Insurance and Banking Company.

SIR: We have received a letter from the master and another from the supercargo of the barque Margaret Hugg, J. B. Corner, master, dated Nassau, 24th June 1842, informing us of the various disasters which she had met with on her late voyage from Montevideo to Cuba, and that she had put into Nassau in distress; these letters represent great damage done to the vessel, and materials and the cargo, having seven feet water in her hold, by reason of which the cargo would have to be discharged, no doubt in a very damaged state, and the freight thereby lost; we therefore abandon to you so much of said barque's freight as is insured by you, say to amount of five thousand dollars, and claim from you a total loss thereon to amount of that sum.

We are, respectfully, sir, your most obedient servants,

JACOB W. HUGG,
JOHN M. BANDEL.

And that said Morton afterwards stated to witness, that he had received the same, and that he did not object to its sufficiency.

They then offered in evidence the deposition of John B. Corner.

Deposition of J. B. Corner.

The United States of America,
District and State of Maryland, sct.

Be it remembered, that on this fifth day of December, in the year of our Lord one thousand eight hundred and forty-three, at the city of Baltimore, before me, John Hanan, a commissioner appointed by the circuit court of the United States, for the district aforesaid, in the fourth circuit of the said United States, under and by virtue of the act of Congress, entitled "An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," personally appeared John B. Corner a witness for the plaintiffs in a certain civil cause now depending in the circuit court of the United States for the district of Maryland, wherein Jacob Hugg and John M. Bandel are plaintiffs, and the Augusta Insurance and Banking Company, of the

city of Augusta, are defendants. And the said witness being by me first carefully examined, and cautioned, and sworn to testify the whole truth, makes oath, deposeth and saith, that he was the captain of the barque Margaret Hugg, on her voyage from Baltimore to Rio; from Rio to Montevideo, and from thence to Matanzas; that her cargo consisted of jerked beef. On the 14th of June, 1842, the barque made the "Hole in the Wall;" on the 16th June, was running down for the Isaacs, and touched the ship on the tail of the Gingerbread ground in day light; she was only there a few moments, she touched a number of times, but still kept going a-head; soon cleared the bank and got into deep water; short time after made the Isaacs; coming on night, hauled the ship off the wind to the eastward, and worked about that way through the night; next day it was thick and rainy; saw no land at that time, it was too thick; on the next day, judging from the appearance of the water, and seeing no land in sight, and not being enabled to get an observation, thought he was in the Gulf stream. The vessel lay there perfectly becalmed. At sunset it was very clear, but no land could be seen from the main royal yard. A little after 8 o'clock, got a little light air, standing about a knot and a-half; about half past 9, told the mate he might carry the lead forward, and have it ready to cast; and just before 10 o'clock, and before the lead had been cast, she struck; the sails were then all hung aback, and we commenced heaving overboard beef, to the amount of some two or three tons; were not long at it, the ship was then backed off and got into eleven fathoms of water, and then came to an anchor.

The ship got off the ground at 2 o'clock; at day light discovered the Little Isaacs; the wind being ahead, still lay there until she was boarded by the Nassau wreckers; after considering some time, the wind being fair for Nassau, but ahead for Matanzas, and the rudder braces broken, and not knowing the extent of the damage, made for Nassau. The vessel was leaking, and deponent could not ascertain the damages where she was. (The Nassau wreckers who are all pilots for the banks, told deponent he was in great danger from the reefs, and the place where they were at anchor, and offered to pilot the ship into Nassau, which deponent thought it advisable to do, to ascertain the damage done to the ship;) she was then taken by one of the wreckers, who had her in charge as a pilot to Nassau, and when she came off the bar, she was taken in charge by the King's pilot, according to the custom of the port. After getting her over the bar, the King's pilot attempted to bring the ship to an anchor, he let go the best bower anchor, and that not bringing her up, he let go the second anchor, which brought her up; then took all sail in and furled it; thinks it was half ebb tide when the ship struck the bottom so violently as to raise the pumps two inches. She thumped for some time in that situation; then took a tremendous squall from the south-east, which drove the ship over the bar, into four or five fathom water; from the time she struck, they commenced throwing the beef overboard to lighten her, in consequence of the leak, and made signals of distress, and continued throwing the beef overboard till she crossed the bar. Deponent was very ill at the time, but was on deck when the vessel struck,

and continued on deck until the vessel got relief from the American consul, who brought 14 or 15 men. Supposes a great deal of beef was thrown overboard, but don't know how much; they were engaged in throwing over the beef from both sides of the ship; a short time after the American consul came on board, the captain of the port came alongside with warps, launches, anchors and men—fourteen men were put to the pumps to try to keep the vessel free, but could not do it, though they kept pumping night and day; the captain of the port got anchors and chains, and began to warp the ship into the harbor; during all this time it was blowing heavy. It was about 11 o'clock that the captain of the port observed to deponent, he had got her half way up the harbor, but he could get her no further; she was then on the bottom. The lighters then got along side, and *the* commenced putting the dry jerked beef into them, the wet not being allowed to be landed. The next day they succeeded in getting the barque into good anchorage. Deponent thinks they landed one hundred and fifty or sixty tons of dry beef.

The ship still continued leaking, having fifteen men at the pumps, and not being able to keep her free; when we got to the wet beef we were ordered to take it out of the harbor and across the bar in launches, (each launch having a police officer on board) and to throw it into the water, which was done. They must have carried out in the launches as above stated about 3 or 4 tons; a man sick as he was could not retain these things in his memory, or state any thing precisely; all the beef, except what was landed, was thrown into the water, and what was landed was about one hundred and fifty or sixty tons.

Don't recollect exactly how many tons of jerked beef were on board when they left Montevideo; believes there was about 400 tons, and a few barrels of rosin, which deponent used as dunnage, and there was no other cargo. The dry beef that was landed at Nassau was sold by the order of the marshal of the city. There were no vessels at Nassau that could be employed to carry on the dry beef to Matanzas.

Cross-examination. *Cross-examination.*

Deponent was taken sick on the night of the 14th June, and was confined to his birth part of the night, and part of the night was on deck; although he was sick, he was up and down on the 15th, 16th, 17th, and 18th and a greater part of the time on deck: when deponent's vessel first struck, he knew it was on the tail of the Gingerbread ground, but he could not understand how she could be there, from the courses they had been steering, but attributes it to the currents; from the courses they had been running, and by their calculations, he thought he was a considerable distance above that point, and in sight of the Little Isaacs.

Deponent had been pretty much on deck during the day on which she struck, and was on deck at the time when she struck the second time; he did not know where he was until day-light, when he saw the Little Isaacs. From the time of striking until day-light was from 10 to 4 o'clock. Deponent determined to go to Nassau to ascertain the extent of the damage, and cannot say how much time was spent at the pumps.

Not knowing the damage done to the rudder braces, he would have gone to Nassau whether she leaked or not, she being a heavy vessel, and Nassau the nearest port; the rudder had become unshipped by the thumping, and deponent sent a boy overboard to examine the rudder, deponent saw the upper brace was broken, because it was above the water. As soon as he discovered the upper brace was broken, he sent the boy overboard, who reported the middle brace was broken, and he could not see the other; with the rudder braces broken as above stated, not knowing the situation of the ship's bottom, he would have gone into Nassau with the wind that was.

Deponent says that with the injury to the rudder braces as above stated, even if everything else in the vessel had have been right, he would have gone into Nassau to ascertain her condition. The Nassau wrecker whom he employed, he employed as a pilot, but where he took the pilot was not in the course of vessels bound for Nassau; don't think there was any vessel of any nation in the port of Nassau at the time, by which the cargo could have been transhipped, the vessels in port being wreck vessels. Deponent attended the sale of the beef; he is acquainted with Mr. Henry Adderly, a merchant, and a very respectable man, who bought it with the intention of shipping it to Matanzas. Adderly told deponent he intended to ship it to Cuba;) this conversation took place at the sale, as well as deponent recollects. Mr. Adderly has several vessels to deponent's knowledge, and does a large commission business; the principal lots of the beef were knocked down to Adderly at the sale. Deponent does not know that he made any enquiries about vessels, as he knew the vessels that were there.

Deponent had been thirty-nine days out, and when he struck was about 2½ days sail from Matanzas with a fair wind; was not persuaded by the wreckers to go into Nassau; has mind enough to judge for himself; don't recollect having stated to the Nassau wrecker, after having got off the Gingerbread ground, that he, the captain, considered the vessel out of danger, and that he could go on his voyage to Matanzas; deponent's opinion is now, that he then thought that he could not go to Matanzas.

Direct-examination continued.

If deponent had known that no injury had been done to the bottom of the vessel, and only two braces broken, he would not have gone into Nassau.

JOHN B. CORNER.

This deponent here produced the bill of lading hereto annexed, marked exhibit A, and the signature of John B. Corner thereto is in deponent's proper handwriting.

JOHN B. CORNER.

All the testimony marked with brackets is objected to by the counsel.

United States of America,
District and State of Maryland, sct:

I, John Hanan, a commissioner appointed by the circuit court of

the United States for the district aforesaid, in the fourth circuit of the said United states, under and by virtue of the act of Congress, entitled "an act for the more convenient taking of affidavits and bail in civil causes, depending in the courts of the United States," do hereby certify, that the reason for taking the deposition hereunto annexed of John B. Corner is, that the said witness is about to proceed on a voyage to sea. I do further certify, that notice of the time and place of taking this deposition was given to the counsel of the respective parties, and that they were present at the taking of the same. I do further certify, that I am not of counsel or attorney to either of the parties in said deposition mentioned, nor interested in the event thereof; that the said deposition was reduced to writing by me, and thereafter subscribed by the said deponent in my presence. In testimony whereof, I have hereunto set my hand and seal, this 6th day of December, one thousand eight hundred and forty-three, at the city of Baltimore, in the State aforesaid.

JOHN HANAN, [SEAL.]
Commissioner.

Bill of Lading.

(Exhibit A referred to)

Shipped in good order and well conditioned by Southgate & Co., by order of Mr. Peter Strobel, on board the barque called the Margaret Hugg, whereof John B. Corner is master, now lying in the port of Montevideo, and bound for Matanzas or Havana; to say, two thousand six hundred and sixty-six quintals jerked beef, (2,666 qtls. beef,) being marked and numbered as in the margin, and are to be delivered in the like good order and well conditioned, at the port of Matanzas or Havana (the dangers of the seas only excepted) unto Don Pedro Giol, or in his absence Don Francisco Oger, or to assigns, he or they paying freight for the said beef, nothing being property of owners of said barque, with primage and average accustomed. In witness whereof, the master or purser of the said vessel hath affirmed to 5 bills of lading, all of this tenor and date, one of which being accomplished, the others to stand void. Dated at Montevideo, the 25th day of April, 1842.

JOHN B. CORNER.

Not accountable for loss in weight.

(Endorsed.) Exhibit A, filed Decr. 6, 1843.

J. HANAN, *Commissioner.*

The deposition of John A. Durkee.

Deposition of John A. Durkee.

United States of America,
District and State of Maryland, to wit:

Be it remembered, that on this thirty-first day of July, in the year of our Lord one thousand eight hundred and forty-three, at the city of Baltimore, before me, John Hanan, a commissioner appointed by the circuit court of the United States, for the district aforesaid, in the fourth

circuit of the said United States, under and by virtue of the act of Congress, entitled "an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," personally appeared John A. Durkee, a witness for the plaintiffs in a certain civil cause, now depending in the circuit court of the United States for the district of Maryland, wherein Jacob Hugg and John M. Bandel are plaintiffs, and the Augusta Insurance and Banking Company of the city of Augusta are defendants.

And the said witness, being by me first carefully examined, and cautioned, and sworn to testify the whole truth, makes oath, deposeth, and saith, that he was the chief mate of the barque Margaret Hugg, on her voyage from Montevideo, bound to Matanzas in the Island of Cuba; that said barque sailed from Montevideo, on or about the 19th of April or May, 1842. The cargo consisted of about 430 tons of jerked beef, and a few barrels of rosin. The barque having taken the rosin out, and not being able to sell it. Had very fine weather till they got to the Bahama banks, and had good weather nearly all the voyage. That said barque, about 2 or 3 o'clock in the afternoon, ran ashore on the Gingerbread ground, said barque being then under full sail. In about half an hour after she first struck, got her off, and a brig to the southward of the barque, struck about the same time, and was left there by the barque. Deponent being acquainted with that navigation, which however is very difficult, carried the barque through the entricacies of the reef, and got her off, which was done by keeping his eye upon the bottom. This reef is a very difficult one, and vessels very frequently get aground on the Gingerbread ground; and even though a vessel gets off, she is in great danger of getting on again, on account of the intricacies of the channel, the bottom being so full of rocks in lumps. After the barque got off, stood for the Great Isaacs, and made them at about seven in the evening; then hove the ship to, for a couple of hours, and then stood off, tack and tack, for a couple of hours, so as to maintain our position till day-light; we then stood in for the purpose of making the Great Isaacs again, but the wind being baffling and squally the whole day, and ahead, and not having made the Great Isaacs at night, they supposed they had by some current been thrown outside of it, until about half past 9 at night, when deponent had orders to prepare the ship for tacking, and in a few minutes afterwards the vessel struck on the Gingerbread ground again. The shoal where they first struck is not laid down on the charts, but has bold water of 7 or 8 fathoms marked upon it. After the vessel struck this time, threw everything aback to keep the vessel from further forcing on the shoal, and then commenced throwing out the beef in order to lighten the vessel. Deponent went into the boat, and went all [*the*] round the vessel, to ascertain how she could be got out, and found there was no other outlet but the one by which she got in. She struck heavy. Threw over 5 to 10 tons of beef, and by manœuvering the sails, the vessel was backed out the way she come in; whenever she struck, whilst on the bank, she raised the rudder; as soon as they got afloat they wore round, stood out, took soundings and finally got into 9 fathom water,

and then anchored. At day-light, observed that the rudder was unshipped. They sent the steward to dive down to ascertain the condition of the rudder, who found that the rudder was unshipped, but that there were some pintals and braces left by which they could ship it. The barque did not make as much water the second time she struck as she did at first. Deponent don't recollect how much water she made. The barque was pumped out every hour, to the best of deponent's recollection; deponent's memory is treacherous and may vary from the log book, which was written by deponent at the time, and is accurate. The barque made as much water every hour or half hour as took two men five minutes to pump out; thinks she was pumped out every half hour. The wind still being ahead for Cuba, remained at anchor till about 11 o'clock, when we observed several small vessels coming towards us, which upon a nearer approach discovered to be British wreckers; at 12 o'clock were boarded by the sloop Harriet, a wrecker, who asked the captain of the barque if he wanted any assistance; captain said he did not, he considered the barque in perfect safety where she was; but the captain of the wrecker went on and assured us that the danger was very great, and wished us to take him; after consultation between the captain, pilot, and supercargo, (Mr. Strobel, the captain of the Harriet, being a Bahama pilot,) it was concluded to take the barque into Nassau, with a view to a survey; and if no injury was sustained, to proceed on her voyage. Captain Corner believing that it was his duty, acting as the agent of all parties, to go into Nassau, as the assistance was offered him, bore up for Nassau, which was about 80 miles off; had to beat up all the way to Nassau, and arrived off the bar of Nassau without any further accident. The King's pilot came out of Nassau to pilot us into the harbor; he carried us in as far as the wind and a strong spring tide would allow us to go, and said we were in a place of perfect safety; we then let go the best bower, but that not bringing the vessel up, let go the small bower, when the vessel dragged some distance before she brought up; the pilot then went on shore, and Captain Corner requested him to ask the American consul to send him warps and men to get the vessel into the inner harbor, as it was then blowing very strong; shortly after the pilot left us the barque began to thump very heavy; we then commenced throwing over some more of the beef to lighten the vessel; thinks they then threw over 3 or 4 tons of the beef. Whilst thus lightening the vessel, there came on a dreadful hurricane, and all hands had to quit that and go to sending down the topgallant yards and masts. It blew so hard that it drove the barque off the reef into five fathom water; we then got help from town, and proceeded to warp the vessel into the inner harbor; she leaked so bad at the time she struck as last mentioned, that it took 12 men at the pumps to keep her afloat; the men were kept constantly pumping. She was then warped up on to the bar, where she grounded again, and there was then 8 or 9 feet water in the hold; after a good deal of labor and discharging a large quantity of beef, got her into the inner harbor; thinks they discharged 150 or 160 tons; said beef was very much heated, and a great deal of it wet, and so hot you could scarcely

stand on it to work. The above 150 or 160 tons of beef were put on board boats, and landed and stored. In a couple of days afterwards, the authorities of Nassau ordered the barque out of the inner harbor, and required them to throw the rest of the beef, it being in a putrid state, and some of it almost green, overboard. That which was landed was heated and sweated, and not in a good condition; it had depreciated a good deal. The vessel and the cargo that was stored, was libelled by the wrecker for salvage, and the beef was eventually sold. The beef was not in a fit condition to be shipped. The keel and rudder of the barque was very much injured, and it became necessary to caulk and put pieces in her keel, and repair the rudder; but they could not make the repairs complete there; the vessel had worked a great deal and required to be iron-kneed in order to take in a cargo, and that could not be done there. After she was repaired, they ballasted her, and brought her to Baltimore; the ballast was stone, and the few barrels of rosin they had in her before.

Cross-examined.

When the vessel went ashore first on the Gingerbread ground, could not tell what the damage was, except from the leaking, and she required to be pumped every hour or half hour, don't know which. Captain of the barque was then well and attending to his duty; don't think they remained aground, the first time, more than half an hour. The wrecker came on board after the barque had got off the Gingerbread ground the second time, and in deep water at anchor. Deponent heard the pilot say, they were in the middle of the Gingerbread ground, and in eminent danger. The vessel was sufficiently repaired to get her to the United States in ballast. She was not in a condition to take a cargo to the Matanzas. The vessel was repaired after she arrived at the United States. Deponent does not know that there was any effort made to procure another vessel to carry the cargo to Matanzas. Does not know that the captain consented to the sale of the beef.

JOHN A. DURKEE.

United States of America,
District and State of Maryland, sct:

I, John Hanan, a commissioner appointed by the circuit court of the United States for the district aforesaid, in the fourth circuit of the said United States, under and by virtue of the act of Congress, entitled "an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," do hereby certify, that the reason for taking the deposition hereunto annexed, of John A. Durkee is, that the said witness is about to proceed on a voyage to sea. I further certify, that notice of the time and place of taking this deposition was served on the counsel for the defendants, and their agent, William Poe, esq., and that said William Poe was present at the taking of the same. I do further certify, that I am not of counsel or attorney to either of the parties in said deposition mentioned, nor interested in the event

thereof. That the said deposition was reduced to writing by me, and thereafter subscribed by the said deponent in my presence. In testimony whereof I have hereunto set my hand and seal, this 31st day of July, one thousand eight hundred and forty-three, at the city of Baltimore, in the State aforesaid.

JOHN HANAN, [SEAL.]
Commr. Cir. Ct. U. S. for Dist. of Maryl'd.

The deposition of Peter Strobel. Deposition of Peter Strobel.

United States of America,
District and State of Maryland, sct:

Be it remembered, that on this first day of August, in the year of our Lord one thousand eight hundred and forty-three, at the city of Baltimore, before me, John Hanan, a commissioner appointed by the circuit court of the United States for the district aforesaid, in the fourth circuit of the said United States, under and by virtue of the act of Congress, entitled "an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," personally appeared Peter Strobel, a witness for the plaintiffs in a certain civil cause now depending in the circuit court of the United States for the district of Maryland, wherein Jacob Hugg and John M. Bandel are plaintiffs, and the Augusta Insurance and Banking Company, of the city of Augusta, are defendants.

And the said witness being by me first carefully examined, and cautioned, and sworn to testify the whole truth, makes oath, deposeth, and saith, that he was supercargo on board the barque Margaret Hugg, on her voyage from Montevideo, bound to Matanzas or Havana, in the Island of Cuba. She sailed from Montevideo about the 29th of April, 1842. The barque was about 47 days out, when she first struck on the Gingerbread ground, where she thumped several times, but by good management got out of all danger as deponent supposed, when the pumps were sounded, and they found she leaked a large spell every half hour. Deponent took particular notice of that fact. Deponent has been to sea several voyages; about dusk, being nearly opposite the Great Isaacs, furled the light sail, and stood tack and tack for some time; then laid the vessel to for about 2 hours; at day-light made sail again, not seeing the Great Isaacs, judged they had been drifted out into the Gulf stream; wind being dead ahead for the Island of Cuba, kept beating about; the sun being obscured that day, could not find our latitude or longitude; that night, about 9 o'clock, the captain and chief mate took an altitude of the north star, and the captain then gave the chief mate orders to see the vessel all ready for going about, and ordering one of the men to pass the lead forward to see if they could find any bottom; while the man was in the act of passing the lead along forward, the barque struck and thumped very heavily, so much so that deponent was fearful the top-gallant mast would go over the side; got all the sail back, to try and back her off; took the hatches off, and commenced heaving over cargo; chief mate with two men went in a boat to take soundings, in order to

find in what direction the deepest water was, and found that the way she came on was the deepest; after heaving over a considerable portion of the cargo, but how much deponent does not know, the barque began to back off, when we stopped heaving over the beef, and managed the sails so as to back her off the way she came on; after she had got off, wore short round and stood to the northward and eastward, getting various soundings from four to ten fathoms; about half an hour after she got off, came to anchor on the bank in about eleven fathom water; and at daylight we found that the rudder was unshipped, and that all the pintals were broken except one; there was originally three pintals, after a good deal of exertion, we succeeded in reshipping the rudder by the remaining one pintal, which would be very dangerous if the barque encountered a heavy gale of wind.

Between 11 and 12 o'clock, saw several vessels approaching the barque, and about half past 12 o'clock the barque was boarded by the captain of the sloop Harriet, she being a Nassau wrecker. Before the barque struck first, she made no more water than *than* enough to keep her sweet, not more than a light spell in every four hours, to the best of deponent's knowledge. Deponent was frequently on deck, and had every opportunity of observing the water she was making. Whilst the barque lay at anchor she did not make as much water as she did between her first and second striking; but as soon as she got under weigh, carrying sail on her, she made a large spell every half hour. The captain of the Nassau wrecker informed Captain Corner that the barque was in great danger; that she was on the Gingerbread ground, and that there were shoals, coral rocks all round the vessel, and if he attempted to take the barque out, he would certainly get her ashore again; after consultation between deponent, Captain Corner, and the captain of the Harriet (who was a Bahama pilot,) we agreed that he (the wrecker) should pilot us into Nassau, which was the advice also given by the pilot. Captain Corner deeming it prudent, (as we did not know the extent of damage sustained by getting ashore, and the rudder being in a very weak state) to proceed to Nassau, hold a survey on the vessel, and repair what damages that might be necessary, so that she could proceed on her voyage to Cuba. As the wind was then ahead for Cuba, and Nassau being the nearest port with the wind from the south-south-east, it would take us a very long time to beat down to Havana, as the current sets to the northward, between the coast of Florida and the Bahama banks, at the rate of 3 or 4 miles an hour, it would have been necessary under the above circumstances for the barque to have laid on the bank until the wind favored us for our port in Cuba.

About two days after getting under way, we made Nassau light, beating about to keep a favorable position until day-light, when the deputy King's pilot came on board, and proceeded to get the vessel into the harbor; about two hours afterwards, the King's pilot came on board, and as the current was running out of the harbor, Captain Corner asked him if there was any danger in attempting to get in, and if there was any, he would prefer remaining outside until the tide turned; the King's pilot told him that there was no danger whatever, and proceeded with the vessel into the harbor; when in the harbor, and two or three hun-

dred yards inside the bar, the pilot ordered the helm down and the anchor to be let go, when immediately the best bower was let go; that not bringing her up, ordered the small bower to be let go; after paying out a considerable scope of chain she brought up, when the pilot immediately went ashore in his boat, Captain Corner asking him if there was any danger where they lay; he replied no, the vessel was perfectly safe. The current running out all the time; the vessel in about half an hour after the pilot left her, commenced thumping on the bar or shoal in the harbor; a tremendous squall arising at the same time, Captain Corner told the deputy pilot that he had better go on shore and ask the American consul to send off assistance to the vessel, as she was in a very critical situation, and he expected there would be a hurricane; after the deputy pilot had gone, it commenced blowing very heavy, we hoisting the signals of distress, and holding beef up to the wrecking vessels laying close by us for them to come and get it, as we desired to save all that we could; they not coming, and the barque thumping very heavy, and it then blowing very hard, we commenced heaving over the beef, and sending down royal and topgallant yards and topgallant masts, when she drifted over the bar into deep water; sounded the pumps and found four feet water in the hold; the agent for the underwriters, the American consul's clerk, and the harbor master came on board, got warps and anchors, and commenced getting her into the harbor again; had 14 men at the pumps, and the rest were at work getting the ship into the harbor; the most water she ever had in her hold was between 7 or 8 feet. In warping the vessel up the harbor, she grounded in 16 feet water; after constant pumping both night and day, we succeeded in freeing her so that the men at the pumps could rest about ten minutes every hour; we succeeded in discharging the beef, (so as to lighten the vessel) to the extent of 120 to 150 tons; the balance being wet, and some of it perfectly green, and smelling awfully, the health officer would not allow us to have it taken ashore, and ordered us down outside the bar, to throw it overboard, as they were fearful of its breeding disease. The beef could be smelt on the shore from the vessel; we succeeded in heaving all the beef overboard, cleansing the vessel and whitewashing inside, and then they allowed us to come into the harbor again. The beef when put on board was first rate beef, and shipped in excellent order, and mattings were put between the beef and the vessel's sides, to prevent the beef from getting damp or sweating.

Deponent attributes the beef's spoiling to the salt water getting into the hold, after the accidents encountered by the vessel; on our arrival at Nassau the vessel was surveyed, and she was ordered to have her cargo discharged for the purpose of ascertaining the damage she had sustained (this was on the first day of her arrival at Nassau;) after her discharge sent divers down, and found the forefoot gone and the keel very much shattered, and the rudder entirely broken off, when the surveyor ordered her to be hove out to know exactly the extent of the damage; she was hove out, and the keel was found so much injured, that they had to

put new pieces in it, and then they could not repair her there so as to take on board a cargo in safety to any port from there.

Deponent does not know precisely the amount the surveyors awarded for her repairs, but thinks it was 10 to 15,000 dollars. The vessel had no means of her own to make the repairs with, but Mr. Starr, the agent of the underwriters, offered to advance money for repairs upon bottomry, but deponent does not know to what extent he would advance, it not being the business of deponent to ascertain that fact. Deponent had no knowledge of insurance having been made on ship or cargo, until he came home to the United States, nor did the captain know it; they had received no intelligence from the United States on the subject. There were a little rising four hundred tons of jerked beef on board the barque, two thirds on freight, and the rest the owner's property; the freight on the two thirds would be somewhat above five thousand dollars. There was a claim for salvage. The court ordered the beef to be sold and the vessel seized under the claim—salvage. The condition of the beef put on shore was damp or sweaty, owing to the heat or steam of the wet beef. This beef was in danger of becoming unmerchantable by transhipment; it sold from a cent to a cent and a-half a pound, and cost about 2½ cents a pound in Montevideo. The reports from Cuba of the market for jerked beef were very good while deponent was at Nassau. Deponent was anxious, in consequence of the favorable reports of the market for jerked beef in Cuba, to have an interest in the beef that was sold, and he was also anxious to have it transhipped if it had been practicable; but being seized by the court it had to be sold. Deponent did not wait until the barque was repaired at Nassau, but came home to the United States of America.

Cross-examined.

Deponent, previous to this voyage, had been two voyages to sea; but deponent, having resided on the point many years, in fact raised there, was as well acquainted with the shipping as some that go to sea for several years. On their voyage from Montevideo to Matanzas, they went through the Hole in the Wall passages, on account as the captain said of the winds being stronger and inclining more to the northward; did not discover that the beef was affected before they reached Nassau. Deponent knows that from the fact of his assisting to throw over all the beef at the Gingerbread ground, when the men were unwilling to work, supposing the vessel would be lost.

They could have proceeded on their voyage after getting off the Gingerbread ground, if they encountered no gales of wind; but in case of encountering a gale of wind, owing to only one pintal remaining on the rudder, and not knowing what other damages she sustained, they might have endangered the lives of the crew, vessel and cargo, as the passage is narrow, and the currents are very strong; at that season of the year, (viz, the latter part of June,) there is frequently heavy squalls of wind betwixt the coast of Florida and the Bahama banks. Supposes that 15 or 20 tons of beef *was* thrown over while on the bar at Nassau, with a view to lighten her. The 14 hands engaged in pumping the ves-

sel were got from the shore, the ship's crew being mostly sick by exhaustion, or engaged in discharging beef. The keel must have been damaged every time she struck; the thumping was very severe on the Gingerbread ground, as well as in the harbor of Nassau.

There *was* no efforts made to procure another vessel to carry on the cargo, because the beef was seized by the court of admiralty, and ordered to be sold for salvage. Does not know that any effort was made to pay the salvage claim and get the beef, the captain having no friends to pay the salvage. Does not know that the captain consented to the sale of the beef.

Direct examination.

Deponent does not know to what extent the leaking produced by their getting on the Gingerbread shoals affected the beef. Don't know any thing of the state of the beef after getting on the Gingerbread shoals, and before getting into Nassau, except that he saw at the top of the beef, when he helped to throw the beef out at the Gingerbread ground; and on that occasion the beef was up to about four feet of the beam when it was first shipped at Montevideo, but settled down considerably by the motion and rolling of the vessel during her passage.

Deponent says positively there *was* 5 tons of beef thrown overboard at Nassau bar, and there may have been 30 or 40 tons, but he can't say positively there was more than 5 tons, as deponent was very much worried about the difficulties they were in. There was no American vessel at Nassau, and the freight of the beef that was landed, from Nassau to Cuba, would be very heavy. Deponent would not be surprised if it would have cost from $2 to $3,000, as the port charges in Cuba are very high.

PETER STROBEL.

United States of America,
District and State of Maryland, sct:

I, John Hanan, a commissioner appointed by the circuit court of the United States for the district aforesaid, in the fourth circuit of the said United States, under and by virtue of the act of Congress, entitled "an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," do hereby certify, that the reason for taking the deposition hereunto annexed of Peter Strobel is, that the said witness is about to proceed on a voyage to sea. I do further certify, that notice of the time and place of taking this deposition was given to the counsel for the defendants, and that notice also was left with William Poe, esq., agent for defendants, and that he was present at the taking of the same. And I do further certify, that I am not of counsel or attorney to either of the parties in said deposition mentioned, nor interested in the event thereof. That the said deposition was reduced to writing by me, and thereafter subscribed by the said deponent in my presence. In testimony whereof, I have hereunto set my hand and seal this first day of August, one thousand eight hundred and forty-three, at the city of Baltimore, in the State aforesaid.

JOHN HANAN, [SEAL.]
Commr. Circt. Ct. U. S. Md. Dist.

The libel of Benjamin Demeritt and others. In the vice admiralty court of the Bahamas.

Benjamin Demeritt and others vs. the Barque Margaret Hugg.

BENJAMIN DEMERITT et al.
vs.
The American Barque Margaret Hugg, her tackel, cargo, &c. } Salvage.

On the thirtieth day of June, in the year of our Lord one thousand eight hundred and forty-two, Thomas Martin Mathews, one of the proctors of this honorable court, exhibited for Benjamin Demeritt, master, and James W. Farrington, executor, and Elizabeth Ann Farrington and Harriet Mary Farrington, executrixes, of the last will and testament of William Farrington, deceased, the owners, Henry Nolin, Isaac Collins, Timothy Bain, Charles Morris, James K. Watkins, Anthony King, Derby Fernandez, Brian Fernandez, Peter Haven, and Patrick Fernandez, the crew of the British Sloop "Harriet," of and belonging to the port of Nassau, and alleged that the said sloop, being of the burthen of thirty-six tons by admeasurement, or thereabouts, sailed from the port of Nassau aforesaid, on the seventeenth day of May last past, bound on a wrecking voyage among the leeward islands and quays of this Government.

That, on the thirteenth day of June instant, they encountered very tempestuous weather from the southward and eastward, which obliged them to remain at anchor at Beak's Cay until the fifteenth; at which period, it having partially moderated, they weighed anchor and proceeded to the Cat Keys, for the purpose of obtaining a supply of fuel; and having remained there until the morning of Friday, the seventeenth, they again got under weigh and directed their course for the Gingerbread ground. That at nine A. M. of that day, a vessel was descried from the masthead some distance to the northward and eastward of them, apparently on shore; they accordingly directed their course thither, and when about five miles distant, observing a signal at the peak, which they conjectured was hoisted with the view of attracting the notice of the officers and crew of the said sloop, and of obtaining their assistance, the English ensign therefore was in like manner hoisted on board of the said sloop, and they continued on their course. That the said sloop being brought to the wind, the said Benjamin Demeritt, with four of the crew, boarded the said vessel about noon, which proved to be the American barque Margaret Hugg, John B. Corner, master, bound from Montevideo to the port of Matanzas, with a cargo of jerked beef. That they were informed by the said John B. Corner, that the said barque had been twice on shore in the immediate neighborhood of where they then were; that on the occasion of their first striking they were running with their studding-sails set under an eight knot breeze, which consequently occasioned her to strike heavily, but that observing deep water astern, they had succeeded in backing her off, when they immediately came to anchor; on subsequently making sail however, and endeavoring to proceed on their voyage they again struck, and by reason of a strong gale, which at

that time prevailed, the said barque continued to labor and strike so heavily, for the space of three hours, that they were apprehensive of sustaining some serious damage, but with the united aid of all on board, they succeeded in floating her off by throwing a portion of her cargo overboard, when they again came to an anchor, and ascertained that the rudder had been unhung and the pintals thereof broken. Upon enquiry being made by the said Benjamin Demeritt, whether the barque had sprung aleak in consequence thereof, he received a reply in the negative; which induced him to remark that the keel of the said vessel appeared much rubbed. That a few minutes having elapsed, the said John B. Corner enquired of the said Benjamin Demeritt if he could inform him with any degree of certainty of their then position; and upon the latter stating that they were in the centre of Gingerbread ground, he expressed great astonishment thereat, alleging that he had been, and was still impressed with the belief that he was on the Carysfort reef on the coast of Florida. The said Benjamin Demeritt however assured him that he was in error, that he was in an extremely perilous situation, being surrounded on every side by rocks and shoals, which threatened destruction to everything coming in collision, and that a doubt did not exist on his mind, but that in the event of the wind increasing the said barque would inevitably become a total wreck; and in conformation of such his report, he stated that the Isaacs were at that time visible from the masthead bearing west northwest, distant about nine miles; whereupon the mate of the said barque remarked that he had already seen the rocks referred to, and that their bearings corresponded with those described by the said Benjamin Demeritt; whereupon the said John B. Corner required to know from the said Benjamin Demeritt what amount of remuneration he deserved for the assistance of himself, officers and crew, for extricating them from their then dangerous position; when the said Benjamin Demeritt, taking into consideration the value of the vessel and her cargo, the perils which beset them on every side, the great practical experience which was essentially necessary to be possessed and exercised in order to avert the impending danger, and the serious responsibilities which attached and rested upon him on the assumption of an undertaking fraught with so many and great dangers, stated that he would be satisfied with the sum of three thousand dollars; to the payment of which sum however the said John B. Corner dissented; but at the same time, conscious of the total inability of himself and crew to effect so desirable a purpose, and that without the aid and assistance of the said Benjamin Demeritt and his party, the lives and valuable property on board would be at the mercy of the elements, acquiesced in the proposition made by the said Benjamin Demeritt, that the quantum of remuneration should be left to the decision of the Bahama chamber of commerce on their arrival at Nassau, with whose proceedings he, the said John B. Corner, was well acquainted; especially as it was his intention to proceed thither with the view of undergoing an examination, and ascertaining the extent of the injuries sustained by the said barque.

That the said Benjamin Demeritt accordingly took charge of the said

barque, and having stationed himself at the foreyard, one of his crew at the end of the jibboom, and directed three of his crew to assist in weighing anchor, he instructed the officer in charge of the sloop to get under way and proceed ahead of the said barque, in order, by means of the lead line which was kept constantly in use, that they might apprize them of any danger which presented itself; all which orders being obeyed, they made sail on the said barque, and followed the sloop in her wake until the hour of four; when having conducted her without the limits of the danger aforesaid, they lay for a short time until the said Benjamin Demeritt had visited his said vessel, and given the necessary instructions to those on board; and this became the more necessary from the circumstance of the said barque requiring the pumps to be attended to every half hour; and although the leak could not be considered then of a dangerous character, yet it was feared that, when under sail, or the visitation of boisterous weather, it might increase to so alarming an extent as to cause serious apprehensions on the minds of those on board; it therefore was deemed advisable that the sloop should keep in company, in order that her assistance might be made available in case of necessity. That the said Benjamin Demeritt having shortly afterwards returned on board of the said barque, assumed the command of her, and also kept two of his crew on board for the purpose of assisting in pumping. That in consequence of the illness of the said John B. Corner during their voyage to Nassau, the entire command of the said vessel devolved upon the said Benjamin Demeritt; and upon the leaky state of the vessel, not only the crew of the said barque, but the two men aforesaid, were completely exhausted from the labor bestowed to the pumps; on the morning however of the twentieth, they arrived off the bar of Nassau, when the pilot having boarded them, the said barque was brought to an anchor some short distance within the same.

That about an hour after their arrival as last aforesaid, the said Benjamin Demeritt proceeded to the shore for the purpose of reporting himself to his employers, and at noon, having again repaired on board, and observed a quantity of jerked beef lying upon the deck, he made enquiry as to the cause thereof, and was informed that during his absence the said barque had taken the ground and struck so heavily as to render it necessary that she should be lightened, for which purpose a portion of her cargo had been thrown overboard, there being at that time four feet water in the hold; that about three o'clock in the afternoon of the same day, the said Benjamin Demeritt again visited the shore accompanied by James W. Farrington, esquire, a part owner of the said sloop, waited upon the agent of the said barque, the honorable John Storr, of this place merchant, and apprized him of the leaky state of the vessel, at the same time desiring to know if the services of himself and crew were any longer required; to which he was replied to the effect following, "that inasmuch as he, the agent, had already furnished the said barque with a sufficient number of anchors and cables, he had no doubt but that she would be very soon warped up to her moorings, and therefore saw no necessity for the said Benjamin Demeritt or his crew proceeding on board."

That the said Benjamin Demeritt, however, differing in opinion with the said agent with regard to the safety of the said vessel, and as a salvor feeling anxious for her preservation and that of her cargo, left the office of the said agent, and having sent on board of the barque eight of his crew, with instructions to render every assistance in their power, he proceeded to his residence at the Creek settlement; that about midnight, the agent of the said vessel having sent to apprize the said James W. Farrington of the striking condition of the said barque, a messenger was immediately despatched on horseback to the residence of the said Benjamin Demeritt to require his presence on board; who having hastened to town on horseback, endeavored to collect together the crew of the said sloop, but failing in doing so, he hired twelve able bodied men from the shore, and having got the said sloop under way, proceeded alongside, and to his astonishment found her in the state described, having eight feet of water in the hold. Strenuous exertions therefore were exercised to overcome the leak aforesaid; to effect which purpose, not only were the pumps kept in constant use, but the parties on board were busily engaged in discharging the cargo therein laden as aforesaid, until five A. M., of the twenty-first, when having floated her off, the assistant pilot boarded them, and by means of the long boat belonging to the said barque, together with the sloop's boat, and manned in part by the crew of the said sloop, they succeeded, after much difficulty and labor, in running out anchors ahead with which they warped her off the shore, and by a continuation of the means and exertions last aforesaid, the said barque was conducted to a safe and secure anchorage at eight P. M., opposite the residence of the said James W. Farrington, esquire.

And the said Thomas Martin Mathews further alleges, that but for the timely and efficient assistance of his said party, the said barque Margaret Hugg must have become a total wreck on the Gingerbread ground aforesaid; and also that but for their prompt and meritorious services, in conjunction with others while on shore at Nassau bar, she must have been totally lost; and in verification of what he so alleged, the said Thomas Martin Mathews prays leave to refer to the attestations and proofs to be by him exhibited; and that the worshipful judge would be pleased to decree such sum of money to be due to his said parties as a compensation of the said salvage services and losses, as to him shall seem meet, together with their expenses; and also to condemn the parties defendant, and the bail given on their behalf therein.

MATHEWS,
Salvor's Proctor.

Benjamin Demeritt, Henry Nolin, James K. Watkins, Timothy Bain, Peter Haven, Isaac Collins, Charles Morris, Anthony King, all of the Island of New Providence, mariners, being duly sworn upon the holy evangelist of Almighty God, did each for himself testify, depose, and say, that what is contained in the foregoing allegation, as far as con-

cerns their own acts and deeds, is just and true; and that what relates to the acts and doings of any other person or persons, they verily believe to be true.

(Sd.) BENJAMIN DEMERITT.
" HENRY his ✕ mark. NOLIN.
" TIMOTHY his ✕ mark. BRIAN.
" PETER his ✕ mark. HAVEN.
" ISAAC his ✕ mark. COLLINS.
" CHARLES his ✕ mark. MORRIS.
" ANTHONY his ✕ mark. KING.
" JAMES K. WATKINS.

Benjamin Demeritt, Henry Nolin, Timothy Brian, Peter Haven, James K. Watkins, Isaac Collins, Charles Morris, Anthony King, were sworn to the truth of the above, this thirtieth day of June, 1842, before me,

J. C. LEES. *J. C. V. A.*

James William Farrington, of the Island of New Providence, merchant, being duly sworn upon the holy evangelist of Almighty God, did depose and say, that what is concerned in the foregoing statement, as far as concerns his own acts and deeds, is just and true; and what relates to the acts and deeds of others, he verily believes to be true.

(Sd.) JAMES W. FARRINGTON.

The said James William Farrington was duly sworn to the truth of the above, this thirtieth day of June, 1842, before me,

(Sd.) J. C. LEES.
J. C. V. A.

True copy for defendant's proctor, MATHEWS,
Salvor's Proctor, 30th June, 1842.

Answer.

The answer to said libel.

In the vice admiralty court of the Bahamas.

The American barque MARGARET HUGG, her tackle, &c., and cargo, als. Benjamin Demeritt et al.

On the seventh day of July, in the year of our Lord one thousand

eight hundred and forty-two, George Campbell Anderson, one of the proctors of this honorable court, appeared for John B. Corner, the master of the said barque Margaret Hugg, and alleged that the said barque Margaret Hugg belongs to the port of Baltimore, in the State of Maryland, United States of America. That the said barque sailed from the port of Montevideo in South America, on the twenty-ninth day of April last past, bound for the port of Matanzas in the Island of Cuba, with a cargo of jerked beef and forty-eight barrels of rosin, (the latter being a part of the outward-bound cargo, which had not been disposed of,) at which time the said barque was tight, strong, staunch and seaworthy, fit and well found, manned, tackled, and provided in good order and condition in all respects.

That nothing material occurred until Tuesday the fourteenth day of June last, at six o'clock, A. M. of which day they saw land from southwest to north, and at seven, saw the Abaco light-house bearing south-south-west; that on Wednesday, the fifteenth of June, the Berry islands were in sight, and at ten Stirrup's Cay bore south, distant two miles. That Thursday, the sixteenth of June, commenced with fresh breezes from south-south-east, and at three P. M. the ship, then steering west, struck on the Gingerbread ground, where she remained about ten minutes. That after thumping three or four times she worked off, and by careful steering they were enabled in about fifteen minutes to get her completely clear of the bank, at which time the Little Isaacs were visible from the masthead, bearing west by north; at seven they took in all the light sails; the Great Isaacs at that time bearing west-south-west, distant eight miles. That up to this period they had not any reason to suppose that the ship had sustained any injury; but the seventeenth commencing with squally baffling weather, the ship began to leak, and obliged them to take a spell at the pumps every half hour. That at four P. M. of the last-mentioned day, they tacked to the southward and westward; at forty-five minutes past nine P. M. orders were given to get all clear for going about; but at fifty minutes past nine the ship struck, upon which the yards were immediately braced back, and the boat got out for the purpose of sounding round the vessel, which having been done, the following depths of water were found, viz., from southwest to northeast, ten to twelve feet; from southwest to southeast, twelve to fourteen feet; from southeast to east, fifteen to eighteen feet; and from west to northeast, two, three, five, and seven fathoms. That they commenced throwing over part of the cargo of beef, in order to lighten the ship; and at forty-five minutes past ten she began to work astern, and at one, A. M., she floated, when they wore her round and made all sail on her, steering east-northeast, having various soundings, from four to ten fathoms; and at forty-five minutes past one came to anchor in ten fathoms of water.

Second. That during the time the vessel was on the ground, as last stated, she struck heavily, raising the rudder considerably, and at daylight they discovered that the rudder was unshipped, and upon examination by one of the crew, who was a good diver, it was found that the

lower and upper braces were broken. That with considerable labor, they got off the upper brace which was broken in three places, and succeeded in again shipping the rudder. That while employed as last aforesaid, they saw several small vessels steering towards the barque, and also discovered another barque approaching from the westward, which latter vessel subsequently grounded, about two miles from the Margaret Hugg. That this last-mentioned vessel having shown Spanish colors, and the American ensign was hoisted on board the Margaret Hugg in return, and not as alleged by the parties proponent for the purpose of attracting the notice of the officers and crew of the Harriet, and of obtaining their assistance, or the assistance of any other parties, as at that time the Margaret Hugg required no assistance whatever, she being afloat, and in a situation in which she could easily have proceeded on her voyage, without any but the ordinary dangers of the seas.

Third. That the eighteenth commenced with light breezes and a smooth sea; at thirty minutes past twelve, the said Benjamin Demeritt came on board of the Margaret Hugg, the master and mate being at that time employed in working an observation. That immediately upon the said Benjamin Demeritt getting on board the barque, he addressed the master, stating that the barque was in a bad place; and that a rock which was visible from the yard-arm, bearing west-northwest was the Little Isaacs, then distant about twelve miles. To this the said John B. Corner (after informing the said Benjamin Demeritt, that the barque had been on shore during the night,) replied that he had seen the rock from one of the yard-arms; that before seeing it, he thought that he might have been carried by the strength of the current on the Florida shore, but that he was only then waiting at anchor until he had, by taking his observation, ascertained exactly the situation of the vessel, when he then intended to proceed in prosecution of his voyage. That the said John B. Corner, however, never stated that he had thought the said barque on the Carysfort reef; that the said Benjamin Demeritt again repeated that they were in a bad place, and endeavoured to magnify the danger of their situation; upon which the said John B. Corner replied, that he differed in opinion with the said Demeritt as to the danger of their situation; that he had sounded, and found ten fathoms of water, that it was he knew much deeper further out, and as they had a fair wind, he could easily find his way out. The said Benjamin Demeritt, then observed, you will have a head wind however for Matanzas, and then urged the said John B. Corner to proceed to Nassau, offering to pilot the vessel there. That said John B. Corner, after consulting with Peter Strobel, the supercargo of the said barque, determined to proceed to Nassau, the nearest port, in order that he might have a survey on the vessel, and being apprehensive that he might incur a liability, so far as relatde tohis insurance, in refusing the assistance of a pilot when offered; he accordingly mentioned his determination to the said Demeritt, and enquired what he would ask to act as pilot, to which the said Demeritt replied "I suppose you would not like to give me three thousand dollars;" upon which the said John B. Corner, who did not conceive

it possible that the sum aforesaid was named in earnest by the said Demeritt, exclaimed, "three thousand dollars," when the said Demeritt proposed that the amount of his remuneration should be left to the arbitrament of the chamber of commerce; to which the said John B. Corner immediately consented, it being however expressly declared and fully understood at the time, between the said John B. Corner and Benjamin Demeritt, that the question to be referred to such chamber should be the quantum of remuneration to be received by the said Demeritt, for pilotage alone, and for no other services, none other having been rendered by him or his crew.

Fourth. And the said George Campbell Anderson further and expressly alleges, that the said barque Margaret Hugg was not, at the time she was boarded by the said Benjamin Demeritt and his party, in any danger whatsoever; that she was then afloat and at anchor; that the wind was fair; that there was an excellent chronometer on board; that the said John B. Corner and the chief mate, both of whom are old and experienced seamen, were at the time employed in working an observation. That their position would thus have been correctly ascertained, and that they could then, without any assistance from the said Benjamin Demeritt and his party, have got the barque clear of the Gingerbread ground, and could without any other, than the ordinary dangers of the sea, have proceeded in prosecution of their voyage.

Fifth. And the said George Campbell Anderson further alleged, that an agreement, as aforesaid, having been so as aforesaid entered into between the said John B. Corner and Benjamin Demeritt, the said John B. Corner, with the officers and crew of the said barque, got her under way; the said Benjamin Demeritt and two of his crew remained on board as pilots, and by two thirty, P. M., the vessel was clear of all danger from the banks, when they shaped their course for Nassau. That at two, P. M., of the twentieth, the Nassau light-house bore east by south distant fifteen miles, and at ten, P. M., the light bore south south-west, distant four miles; that they then hauled up the courses and made short tacks during the night so as to keep to windward of the light; at four, A. M., got both anchors in the shoes, and bore away for the bar; and at five, the Nassau pilot came on board, took charge of the vessel, and anchored her at the mouth of the harbor.

Sixth. And the said George Campbell Anderson further alleged, that the said Benjamin Demeritt was only on board of the said barque in the capacity of a pilot, and that the allegation made by the parties proponent to the effect, that in consequence of the illness of the said John B. Corner, during their voyage to Nassau, the entire command of the said barque devolved on the said Benjamin Demeritt, is incorrect; inasmuch as the chief mate of the said barque is an old and experienced seamen, fully competent to (and did actually) have the command of the said barque during such illness of the said master; that the presence of the two men, who accompanied the said Benjamin Demeritt on board the barque, were not necessary either for working the vessel or assisting at the pumps, and altho' they did occasionally assist in pumping the ves-

sel, they were so employed at the particular instance of the said Benjamin Demeritt, who remarked, that as they were on board, they might as well assist in that work. That the barque was however not leaking much, and it was only necessary to have a spell at the pumps, one an hour, for the performance of which, as also for all other necessary duty, the crew of the barque were amply sufficient. That neither was it necessary that the sloop should accompany them, nor was she in fact, after the evening of the eighteenth, ever in actual company with the said barque, altho' she was at times in sight, but not at a nearer distance than six miles, nor was it at the instance of the master, or any other person in authority belonging to the said barque, that the said sloop her wrecking ground, and proceeded to Nassau; but on the contrary, on the said Demeritt being questioned by the supercargo of the said barque, as to the reason of the said sloop so leaving the wrecking ground, he answered, in the presence and hearing of the chief mate, that it was necessary that she should do so, in order to convey him, the said Demeritt, back to the bank. That if he could however speak her, he would return to her, and send a man who was a good pilot on board the barque; that this conversation took place on the evening of the eighteenth; that the barque was then thrown up into the wind, for the purpose of speaking, the sloop then being astern; but the sloop instead of coming up, immediately stood on to the bank, upon which the barque was kept on her course to Nassau; and on the following morning they saw the sloop some distance ahead of the barque.

Seventh. And the said George Campbell Anderson further alleged, that the said barque, having been anchored as last aforesaid, the said Benjamin Demeritt left her, as also did the Nassau pilot. That at ten A. M., the tide being then half of ebb, the barque commenced thumping very heavily and leaking badly; that at thirty minutes past ten, they sounded the pumps, and found four feet water in the well, upon which they hoisted signals of distress, keeping at the same time both pumps going, and commenced throwing the beef overboard. That at this time the Harriett was lying near to the barque, but no person came from her to the assistance of the said barque. That at eleven there came a heavy squall from the southward and eastward, which drove the barque off the bar on the outward side, where she brought up in four fathoms water.

Eighth. That the honorable John Storr, of the Island of New Providence, merchant, agent for various insurance companies in America, having been informed of the condition of the said barque, provided an anchor and the necessary warps, and instructed the harbor-master and the assistant pilot to repair on board of her for the purpose of warping her within the bar, and up the harbor, authorizing them at the same time to procure the necessary hands for that work. That the said John Storr then proceeded himself on board of the said barque, to ascertain her exact condition; that while the said John Storr was so on board the barque, the said Benjamin Demeritt for the first time returned to her. That his services however were not then required, and the master merely said to him that he had lost a prize by being away, as he had thrown a quantity of the beef overboard, which he might have taken if there. That

shortly after this the said Demeritt repaired on board his own vessel, and moved her up the harbor opposite to the stores of the owner.

Ninth. That the said Benjamin Demeritt, and James William Farrington, on the day last mentioned, waited on the said John Storr, as alleged by the parties proponent, upon which occasion the said John Storr stated that he had done everything that was necessary. That neither the said agent, the said master, or any other person having authority over the said barque, authorized the said Benjamin Demeritt to send his men on board as alleged by him. That neither the said respondent, the said agent, nor any other person in authority on board the said barque, are aware that such men were on board; but if they were, their being so was entirely unauthorized.

Tenth. That the harbor master, and assistant pilot, having proceeded on board the said barque, with the anchor and warps provided as aforesaid by the said John Storr, they caused the said barque's anchors to be hove up, when it was discovered that they were both broken. That they commenced warping at four, P. M.; at seven, another anchor was obtained from the shore; at thirty minutes past nine, she grounded in sixteen or seventeen feet water, there being at the time eight feet water in the hold; at ten o'clock some small vessels came along side, into which they commenced discharging their cargo. That at this time they had fourteen men at the pumps. That about midnight the harbor-master and assistant pilot landed, and having waited on the said John Storr, recommended to him to send some more small vessels to assist in unlading the cargo. That in consequence of this, the said John Storr procured the schooner Manchester and sloop Wesleyan, and also sent to the owner of the Harriet, to procure his vessel for that purpose. That they continued during the night discharging cargo; but at ten, A. M., of the twenty-second, the ship having floated, they discontinued discharging cargo, and again commenced warping her, the harbor-master and pilot having returned to her, and being then on board, as also about one hundred and fifty men from the small vessels aforesaid; at two P. M., the barque again grounded, but floated with the rise of the tide, when they again commenced warping, and at nine P. M., being well up the harbor, they came to with the starboard anchor, and moored the ship.

Eleventh. That the sloop Harriett did not arrive to the assistance of the said barque until long after the other small vessels; that on the said Benjamin Demeritt getting on board the said barque, he at first refused to take any of the beef on board his vessel, but was desirous of stripping the vessel of her sails and rigging; that this being resisted by the master, the said John B. Corner, the said Benjamin Demeritt at length, but reluctantly, commenced removing the cargo, and thus saved a small quantity of the beef, which has been since sold under the authority of this honorable court.

Twelfth. That the said John Storr has paid the master of the said schooner Manchester, which vessel had seventeen men on board, for the services rendered by the said master and crew, fifty dollars. That he has agreed to pay the master and crew of the said sloop Wesleyan, at

the same rate in proportion to the number of hands on board. And that the party respondent and his agent have been at all times, and are still, willing to settle with the said Benjamin Demeritt for his services and those of his men, on the last mentioned occasion, at and after the above rates; but the said Benjamin Demeritt has never made any demand for remuneration; and altho' such services are referred to in detail in the act filed by the parties proponent, yet as no mention whatever, as the respondent is informed, is made of them in the affidavit upon which the action in this case grounded.

Thirteenth. And the said George Campbell Anderson further alleges, that the services performed by the said Benjamin Demeritt to the said barque, previous to her arrival at Nassau, were solely pilotage services; that the party respondent and his agent were at all times ready to remunerate the said Benjamin Demeritt therefor, but the said Benjamin Demeritt and the said James William Farrington never did demand from the said John B. Corner, or the said John Storr, before the commencement of this cause, any specific sum as a remuneration for such services, or for any other services alleged by them, to have been rendered to the said vessel or her cargo; but, on the contrary, the said Benjamin Demeritt and James William Farrington positively declared to the said John Storr, that they would not name any particular sum. That the said John B. Corner was also at all times ready to abide by the agreement made by him with the said Benjamin Demeritt, to refer the question of pilotage remuneration to the chamber of commerce, but the said Benjamin Demeritt and James William Farrington insisted on having their submission worded generally for services rendered by the Harriet, her officers and crew, which the said John B. Corner did not consider himself justified in assenting to.

Fourteenth. That the said Benjamin Demeritt, on the twenty-second day of June, called upon the said John B. Corner, then being indisposed and residing at the house of Timothy Darling, esquire, the United States commercial agent, and in conversation stated to him, the said John B. Corner, that he, the said Benjamin Demeritt, was aware that the services last referred to were only pilotage services, but that one of the owners of the Harriet, the said James William Farrington, insisted upon the claim being made for salvage and cargo.

And the said George Campbell Anderson, in proof of part of the premises herein before set forth, doth exhibit, and hereunto annex, a copy of a letter from the said John Storr to the said Benjamin Demeritt, and an original letter from the said Benjamin Demeritt in answer, which he prays may be taken as part of this his reply.

And he further alleges, that in consequence of the improper commencement of this suit for salvage, his said party has been put to considerable expense and inconvenience, and in verification of what he has alleged he prayed to refer to the attestations to be by him exhibited, and he prayed the worshipful the judge to dismiss the said claim so far as the same goes to demand salvage remuneration, for the services performed by the said Benjamin Demeritt, prior to the arrival of the said

barque in the harbor of Nassau. To remunerate the said Benjamin Demeritt and his party for any services performed by them after the said barque arrived, at and after the same rate which the master and crew of the schooner Manchester, have been remunerated, and to condemn the said Benjamin Demeritt and his party in the costs of the said respondent, incurred and to be incurred herein.

ANDERSON,
Proctor for Respondent.

John B. Corner, master of the within named barque Margaret Hugg, being duly sworn upon the holy evangelists of Almighty God, did testify, depose, and say, that the several circumstances, matters, and things set forth in the foregoing reply, are, as far as such circumstances, matters, and things came within the knowledge and observation of the deponent, just and true; and he also verily believes that all other matters and things therein contained are true.

JOHN B. CORNER.

John B. Corner was sworn to the truth of the above, this 7th day of July, A. D. 1842, before me,

J. A. WILDGOOS.
Surr't, J. C. V. A.

John A. Durkee, first mate, John Hall, second mate, of the said barque Margaret Hugg, and Peter Strobel the supercargo of the said barque, did each testify, depose, and say, that so much of the foregoing reply as refers to circumstances, matters, and things, as having taken place on board of the said barque Margaret Hugg, from the time of her sailing from the port of Montevideo to the time of her being moored in the harbor of Nassau, and particularly such parts as deny the performance of salvage services by the said Benjamin Demeritt and his party, are, as far as such circumstances, matters, and things came within the knowledge and observation of the deponents, correct and true; and they verily believe that all other matters therein set forth are also correct and true. And the said John Hall, for himself, did further testify, depose, and say, that on the passage of the barque to the port of Nassau, the said Benjamin Demeritt then being on board as pilot as aforesaid, he, the said Benjamin Demeritt, stated that he expected to get, or would be satisfied with, four or five hundred dollars for the services rendered to the said barque.

JOHN A. DURKEE.
his
JOHN ⋈ HALL.
mark
PETER STROBEL.

The said John A. Durkee, John Hall, and Peter Strobel, were duly sworn to the truth of the above, before me, this 7th day of July, A. D. 1842.

J. A. WILDGOOS.
Surr't, J. C. V. A.

The honorable John Storr, of the Island of New Providence, merchant, being duly sworn upon the holy evangelists of Almighty God, did depose and say, that what is contained in the foregoing statement, as far as concerns his own acts and deeds, is just and true; and what relates to the acts and deeds of others, he verily believes to be true.

JOHN STORR.

The said John Storr was duly sworn to the truth of the above, this 7th day of July, A. D. 1842, before me,

J. A. WILDGOOS.
Surr't, J. C. V. A.

James Moor Cook, assistant pilot of New Providence, being duly sworn upon the holy evangelists of Almighty God, did testify, depose, and say, that the allegations contained in the first part of the eighth and tenth articles of the foregoing statement are, to the best of deponent's knowledge and belief, correct and true; and further, that the deponent has no knowledge of any men having been sent on board the said barque by the said Benjamin Demeritt after the deponent and the harbor-master went on board of her, as set forth and alleged in the said tenth article.

J. M. COOKE.

The said James Moore Cook, was duly sworn to the truth of the above, this 7th day of July, A. D. 1842, before me,

J. A. WILDGOOS.
Surr't, J. C. V. A.

Letter from J. Storr to Benjamin Demeritt.

To CAPT. B. DEMERITT,
Master of the sloop Harriet, of Nassau.

SIR: I have, on behalf of Captain Corner, of the barque Margaret Hugg, to inform you, that he is ready to submit the case of pilotage of that ship from the Bahama Bank to this port to the arbitration of the chamber of commerce, as agreed upon at the time you took charge of her as pilot.

I remain, sir, your obt. servt.
(Sd) JNO. STORR.

Delivered the above to Capt. B. Demeritt, the 24th June, 1842.
(Sd) J. D. SMITH.

Letter from B. Demeritt to J. Storr.

NASSAU, N. P., 25th *June*, 1842.

J. STORR, esqr.
Agent of the American ship Margaret Hugg.

SIR: I have to acknowledge the receipt of your letter of yesterday, informing me of Captain Corner's readiness to submit the case of pilotage of the ship Margaret Hugg, from the Bahama Bank to this port, to the arbitration of the chamber of commerce, as agreed up . In reply, I have only to inform you that Captain Corner is perfectly aware that no

such agreement was entered into, but it was agreed that for the services of myself, vessel and crew, the chamber of commerce should determine the amount to be given for such services as were needed. An unreasonable objection having been made by you to the form of the bond prepared by Mr. Farrington, and worded in the usual way, leaves me no alternative but to adopt such proceedings as will secure for myself and others interested, whatever we may be justly entitled to.

I am sir, your obedient servant,

(Sd) BENJAMIN DEMERITT.

Decree for Salvage.

And the decree following.

In the Vice Admiralty Court of the Bahamas, 18 *July*, 1842.

BENJAMIN DEMERITT et al. agst. The American barque Margaret Hugg, her cargo, &c. } Salvage.

Both parties alleged and prayed, as by them alleged and prayed in the act of court. The judge having heard the said act and the evidence read, and proctors on both sides thereon, by interlocutory decree, pronounced the sum of two thousand dollars to be due to Thomas Martin Mathew's parties, the owners, officers, and crew of the sloop Harriet, for the salvage and pilot services rendered to the ship and cargo, prior to their entrance into this port; and one hundred dollars for services performed after their arrival; and, further, that each party should pay their own costs.

[SEAL.] True copy: W. H. DOYLE.
Depty. R. V. A. C.

Being a decree for salvage. The affidavits of John B. Corner and others, in the vice admiralty court of the Bahamas, and the decree thereon.

Affidavit's and motion for sale of cargo.

Affidavits to ground motion for sale of cargo.

In the Vice Admiralty Court of the Bahamas.

Barque MARGARET HUGG, her tackle, &c., & cargo. ads. Benjamin Demeritt and others. }

Appeared John B. Corner, master of the said barque Margaret Hugg, and made oath that the said barque, her tackle, apparel and furniture, with her cargo, was, on the twenty-seventh day of this instant June, arrested by process issuing out of this honorable court, in an action of

alleged salvage promoted by the above named Benjamin Demeritt and others. That the cargo of the said barque consisted of jerked beef, and forty-eight barrels of rosin, a part of which beef the deponent has been obliged to have thrown away, in consequence of its becoming decomposed, from having been in contact with sea-water. That the balance of the said beef, about, as the deponent believes, two hundred tons, has been landed and stored in a bonded warehouse. That from the perishable nature of this latter article, deponent was anxious that an immediate sale should take place, and had intended, previous to the commencement of this action, that the sale of such beef should take place in the early part of the present week. And upon the same being arrested, he, the deponent, through his agent John Storr, esquire, instructed his proctor to endeavor to obtain the vessel and cargo, to be restored to him as soon as possible on bail, with the view of expediting the sale of the said beef. That the deponent was advised that, in as much as an action for salvage services had been commenced, it was necessary that a value should be agreed on between the parties, or an appraisement take place before the property could be released. That the deponent denies that any salvage services were performed, but in order to obtain the release of the said property, he, thro' his agent aforesaid, instructed his said proctor to endeavor to enter into an agreement with the other parties as to the value of the vessel and cargo; but this being found to be impracticable, a decree of appraisement was yesterday issued at the instance of the parties promoting the action, under which decree Hugh Kerr, and John Gray Meadows, esquires, two of the principal merchants of this town, were appointed appraisers. That said appraisers met for the purpose of making such appraisement, but after consulting together, they came to the conclusion that it was impossible in the state of the cargo to make, so far as related to the said beef, a proper appraisement, it being the opinion of the said John Gray Meadows, as expressed by him, that the fairest way of obtaining the value of such beef would be by sale, an opinion in which the deponent believes the said Hugh Kerr concurred. That the appraisers, under these circumstances, declined to proceed with the appraisement.

That after such a decision having been arrived at by two of the principal merchants of the place, the deponent feels that an appraisement made by any other persons could not be satisfactory to the parties whom he represents; and as the beef is an article of a perishable nature, and will, as the deponent verily believes, daily deteriorate in value, he conceives that it will be for the benefit of the parties interested in such beef, that the same should be sold by virtue of a decree of this court.

(Sd) JOHN B. CORNER.

On the thirtieth day of June, A. D. 1842, John B. Corner, the above deponent, made oath to the truth of the foregoing affidavit, before me,

(Sd) J. A. WILDGOOS.

Surr't.

In the Vice Admiralty Court of the Bahamas.

Barque MARGARET HUGG, her tackle, &c., and cargo, ats. Benjamin Demeritt and others.

Appeared John Storr, of the Island of New Providence, merchant, the agent of the above named vessel, and made oath that he has perused the foregoing affidavit of John B. Corner, and that the matters therein set forth are, as this deponent verily believes, true and correct.

(Sd) JNO. STORR.

On the thirtieth day of June, A. D. 1842, the above named deponent made oath to the truth of the foregoing affidavit, before me,

J. A. WILDGOOS, *Surr't.*

True copy:

W. H. DOYLE,
Depty. Regr. V. A. C. B.

Registry V. A. C. B., March 31st, 1843.

Extract from the minutes of the vice admiralty court of the Bahamas.

BENJAMIN DEMERITT et al. vs. The American barque Margaret Hugg, her tackle, &c., and cargo. } Salvage.

On Thursday, the thirtieth day of June, before his honor John Campbell Lees, judge and commissar.

Present: W. H. Doyle, deputy registrar.

The judge, at motion of defendants' proctor, grounded on the affidavits of Messieurs John B. Corner and John Storr, promoter's proctor not opposing the same, decreed a commission, to issue for the sale of the jerked beef forming part of cargo of barque "Margaret Hugg;" a commission was accordingly issued and delivered to the marshal for execution.

True copy:

W. H. DOYLE,
Depty. Regr.

Registry V. A. C. B., March 31st, 1843.

Consulate of the United States of America.

NASSAU, BAHAMA, *Apl.* 1st, 1843.

I, the undersigned consul of the United States of America, do hereby certify, that W. H. Doyle is deputy registrar of the vice admiralty court of this colony, and that the facts set forth in the foregoing certificate I do verily believe to be just and true.

Given under my hand and the seal of this consulate, at Nassau, Bahamas, this first day of April, A. D. 1843, and in the year of independence the sixty-seventh.

[L.S.]

TIMOTHY DARLING,
United States Consul.

The account sales of the cargo decreed to be sold.

Account sales of a quantity of jerked beef, landed from the American barque "Margaret Hugg," Corner, master, and sold by virtue of a commission of sale issued from the vice admiralty court of these islands.

1842					
July 1.	Henry Adderly	20 tons	jerked beef *a*	5*s* 10*d*	116 13 4
	Same	20	"	5*s* 6*d*	110 00 0
	Same	20	"	4*s* 6*d*	90 00 0
	John Maura	40	"	5*s* 3*d*	210 00 0
	Henry Adderly	68½	"	3*s* 0*d*	205 10 0
					£732 3 4
	Charges.				
	Amt. of act. for storage, laborage, weighing, &c.			£123 18 3½	
	Advertising			12 6	
	Bond			4 2	
	Labourers			1 0 10	
	Commission on £732 3 4		3 pr. c.	21 19 3	
					147 15 1
					£584 8 3
	Off agent's commission				29 4 5
					£555 3 10
					$2,664 92 0

E. E.

(Sd) AMBRISTE,
M. V. A. C.

True copy: W. H. DOYLE,
Depty. R. V. A. C.

Survey.

The surveys following—

Council Chamber, 29 *June*, 1842.

The gentlemen named by the executive council as a board of health, met at one o'clock in the council chamber, and immediately resolved upon the propriety of viewing the beef that was stored, as well as that on board of the barque "Margarett Hugg."

They beg leave to report as follows, that quantity which is housed in the store appears to the board to be in a sound condition, and fit for the purpose for which it was cured. but as the board are not prepared to state how long this would be the case, they therefore beg to recommend that it should be removed as soon as it conveniently can be done, with due regard to the interests of those concerned.

With regard to that now in the vessel, the board are unanimously of opinion, that it is unfit for human consumption, and that the health of the community imperatively demands that the vessel, together with its remaining cargo, should be instantly removed without any equivocation whatever. The board are likewise of opinion, that the vessel should be moored as near the bar as is compatible with her safety, and not to be removed from thence, unless under a certificate of the health officer.

Signed, P. R. NESBITT, *Chairman.*

And the minutes of the proceedings of the council of Nassau following.

Minutes of the council.

Extract of minutes of the Council, 28th June, 1842.

The lieutenant governor brought under the consideration of the board the risque to which the inhabitants of the town were exposed by the effluvia from some damaged jerked beef, at present on board the barque "Margaret Hugg;" on consideration of the governor and council, it was decided that the harbor-master should be instructed by the colonial secretary to repair, in conjunction with the health officer, on board of the said vessel, and remove her to the nearest point of the harbor as could be done with safety, and from there to convey the said beef over the bar, and discharge it into the ocean.

Extract of minutes, 29th June.

The lieutenant governor laid before the board a letter received from Mr. W. G. Fulford, (harbor-master,) in reply to the order in council of yesterday's date, relating to the barque "Margaret Hugg," stating that the vessel having no rudder, it would be running a great risque to remove her from her present moorings. The board taking into consideration the risque that the inhabitants were exposed to in consequence of her remaining in her present situation, deemed it proper that a medical board should be appointed to examine into the state of the said vessel and cargo, and to report to the council without delay; said board to consist of Drs. Nesbitt, Chipman and Clutsam.

30th June, 1843.

The lieutenant governor having received from the medical board, appointed to examine into the state of the barque Margaret Hugg, their report, the same was laid before the board, and is as follows:

Council Chamber, 29th June, 1842.

The gentlemen named by the executive council as a board of health, met at one o'clock in the council chamber, and immediately resolved

upon the propriety of viewing the beef that was stored, as well as that on board of the barque "Margaret Hugg."

They beg leave to report as follows: That quantity which is housed in the store, appears to the board to be in a sound condition, and fit for the purpose for which it was cured; but as the board are not prepared to state how long this would be the case, they therefore beg to recommend that it should be removed as soon as it conveniently can be done, with due regard to the interests of those concerned.

With regard to that now in the vessel, the board are unanimously of opinion, that it is unfit for human consumption, and that the health of the community imperatively demands that the vessel, together with its remaining cargo, should be instantly removed, without any equivocation whatever. The board are likewise of opinion that the vessel should be moored as near the bar as is compatible with her safety, and not to be removed from thence, unless under a certificate of the health officer.

(Signed) P. R. NESBITT,
Chairman.

This report being approved of, it was the opinion of the board that the same should be carried into effect; and it was ordered, that the inspector general be furnished with a copy of such report, and directed to carry the same into effect with as little delay as possible; and that the harbor-master be instructed to be aiding and assisting the inspector general in the performance of this duty.

P. R. NESBITT,
Colonial Secretary.

I, John Pinder, inspector general of police, do hereby certify, that the preceding instructions were received by me from the colonial secretary, and that the order therein contained was duly carried into effect.

JOHN PINDER,
Inspector General of Police.

United States consulate, Nassau, Bahama.

I, the undersigned consul of the United States of America, do hereby certify, that P. R. Nesbitt is public secretary of this colony, and John Pinder inspector general of police, and that the facts set forth in the foregoing certificate I do verily believe to be just and true.

Given under my hand and seal of office, this 3rd day of February, A. D. 1843, and in the sixty-seventh year of independence.

[L. S.] TIMOTHY DARLING,
United States Consul.

And thereupon the defendants, to support the issues on their part joined, offered in evidence that the cargo of the barque Margaret Hugg, on her outward voyage, was wholly owned by the plaintiffs; that said outward cargo was invoiced at nineteen thousand five hundred dollars, and that the tonnage of said barque was
tons, and that she returned to Baltimore on the 23rd of August, 1842.

They further offered in evidence, by Montell, a competent witness, that he was well acquainted with Nassau; that the Island is about thirty miles long, containing about ten thousand inhabitants, and prosecutes a considerable trade. That he knows nothing about the trade between the river Plate and Nassau; that the trade was chiefly with the United States, Cuba, and England; that the trade with Cuba was constant; that the length of an ordinary voyage from Nassau to Matanzas was three days; to Baltimore, about ten days; that the voyage to either was equally secure. That he knew and knows Mr. Adderly, of Nassau, who is the owner of three vessels, and that he was such owner in 1842.

The defendants further offered in evidence, by Richardson, a competent witness, that he knew the barque Margaret Hugg; that she cost upwards of twenty thousand dollars; that she was launched in 1839, and ranked A, No. 1.

That when she returned to the port of Baltimore from Nassau, her keel was injured; that she leaked; that her stern piece was split; and that it was necessary to put in her a new keel, and pieces in her fore and aft; and that she was not, until repaired, in a condition to carry cargo.

And thereupon the plaintiffs offered in evidence by Samuel Thompson, a competent witness, that he was the president of the Baltimore Insurance Company, and that the regular premium upon the cargo for freight, covered by the policy of insurance for the outward voyage, was about one and one eighth per cent.

They also offered, by Capt. McDonald, that the passage to Nassau from the place in which the barque Margaret Hugg was visited by the pilots, as stated in the deposition of Captain Corner, was actually hazardous, and that, under the like circumstances, he would have felt it to be his duty to proceed to Nassau. And proved the same facts by John Patrick and Kelly, experienced captains, and acquainted with the navigation in the vicinity of Nassau.

Upon this evidence the following questions arose:

1. It being admitted that the loss is to be adjusted according to the terms of the policy of the Baltimore Insurance Company, if the jury find that jerked beef was a perishable article, within the meaning of the policy, is the defendant liable, as for a total loss of freight, unless the entire cargo was so totally destroyed that no part of it could have been carried to the port of destination even in a deteriorated and valueless condition.

2. If the jury find that, from the condition of that portion of the cargo sold at Nassau, (occasioned by the disasters stated in the testimony,) it was for the interest of the insured and insurers upon the cargo, that it should be so sold and not transported to Matanzas, is the plaintiff entitled to recover for a total loss of freight, provided his own vessel could have been repaired in a reasonable time so as to perform the voyage in safety, or he could have procured another vessel, and have transhipped to the port of destination, in its deteriorated state, the portion sold at Nassau.